

REMARKS

Original claims 1 – 10, 37 – 70, 76 – 81, 85 – 87 and 94 – 102 are pending. The Examiner has purportedly examined claims 1 – 102, but apparently forgot that Applicants responded to a restriction requirement on April 28, 2005 in which the above claims were elected for prosecution. For purposes of the present discussion Applicants will treat the case as if the restriction requirement response was entered, and thus will only address the arguments as set forth for the above claims.

The prior rejection in light of Rackson has been withdrawn, but a new rejection was issued in light of Lange (US 6,312,212).¹ This rejection is addressed by traverse and the additional arguments below.

RESPONSE TO REJECTIONS UNDER 103 IN LIGHT OF MORI, BARZILAI, GODIN, AGGARWAL AND LANGE

All of such references, with the exception of Lange, have been addressed in prior responses, all of which are hereby incorporated by reference. The Lange reference however is similarly deficient for several basic reasons.

First, the Examiner will take note that Lange is not directed to an electronic auction system which processes bid information. Instead, Lange is directed to a system which allows an entity to hedge their bets by investing "...in the distribution of possible auction outcomes." Lange, Col. 58, ll. 55+ In other words Lange freely acknowledges that it is not determining the outcome of the auction by resolving bids for items; it is merely a mechanism for allowing auction participants to bet on different outcomes of the auction.

Second, the Examiner appears to misapprehend several teachings in Lange which are not applicable to the present invention. For example, the Examiner states:

"...Lange discloses an embodiment where bidders (firms) can specify that a set of ranked bids submitted by such bidder for a set of items should be treated as mutually exclusive. See *Office Action*, page 3 (emphasis in original)

This is plainly not true as can be confirmed from a closer examination of Lange. To begin with, Lange says and suggests nothing about "ranked" bids as disclosed in the present invention. As claim 1 sets out the, bid ranking "...represents a desired order in which a bid is to be resolved

¹ In this respect, the comment in the most recent Office Action, stating that it is repeating the rejections made on May 16, 2003 and October 21, 2003 (see paragraph 4 of the Office Action) appears to be in error since Lange is newly cited. *Response to Office Action for SN: 09/560,203*

in the electronic auction compared to any other bids made by such bidder for other items in said database of items.” (emphasis added).

Lange merely allows entities to make multiple investments in the outcome of an auction. However these investment do not represent “bids” for items in the auction; more importantly Lange clearly does not allow such entities to “rank” bids in auction in accordance with a desired order as set out in claim 1.

Finally, the Examiner also apparently misunderstands what Lange is teaching when it uses the term “mutually exclusive.” Lange is merely teaching that the auction outcomes are divided into mutually exclusive scenarios; for example, the price of an item sold may be: (1) below \$10; (2) between \$10 and \$20; (3) over \$20. These scenarios are “mutually exclusive” in the sense that they do not overlap:

“...In a preferred embodiment, a distribution of possible outcomes for an observable event is partitioned into defined ranges or states. In a preferred embodiment, one state always occurs because the states are mutually exclusive and collectively exhaustive.” See Lange col. 16, ll. 11+.

In contrast, in claim 1 of the present invention, the “bids” are mutually exclusive because a bidder: “...can specify that a set of ranked bids submitted by such bidder for a set of items should be treated as mutually exclusive, **such that the electronic auction determines at most a single item to be awarded to said bidder from said set of ranked bids....**” (emphasis added).

As the Examiner can plainly see, nothing in Lange teaches or suggest this type of “mutually exclusive” bid, in which one can be assured that they only receive a single item. Lange does not even allow for his investments to be treated this way. So it is not possible for Lange to behave like an electronic auction system of the present invention, or to modify the other references to behave as such.

Since Lange does not actually teach these elements of the claimed invention, it cannot possibly support a § 103 rejection in the present case. Thus Applicant requests that the present rejections be withdrawn.

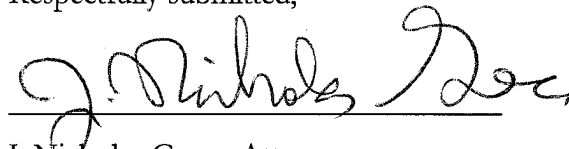
CONCLUSION

Applicant has pointed out the many deficiencies in Lange which make it apparent that such reference is not relevant to the current claims. The claims are clearly patentable thereover, and reconsideration is respectfully requested.

A petition and fee for an extension of time is enclosed as well. Please charge any fees due to deposit account no. 501-244.

Should the Examiner wish to discuss the present case in person, he is invited to please contact the undersigned at any convenient opportunity.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "J. Nicholas Gross", written over a horizontal line.

J. Nicholas Gross, Attorney
Registration No. 34,175
Attorney for Applicant(s)

2030 Addison Street
Suite 610
Berkeley, CA 94704
510 - 540 - 6300
510 - 540 - 6315